CHILD SEXUAL ABUSE

POLICY FOR THE MINISTRY OF ATTORNEY GENERAL

April 1985

Province of British Columbia
Ministry of Attorney General

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1. Objectives of the policy

This policy paper recognizes that child sexual abuse constitutes a serious criminal offence and proposes an approach to ensure that such cases are handled as effectively as possible within the criminal justice system. While acknowledging that the justice system can play only one part in any overall solution to this problem, the paper is based on the assumption that this role is critical, in terms of both the message such involvement conveys about the unacceptability of the behaviour and the necessity for protection of the victims.

The paper further recognizes that these are difficult and time-consuming cases to investigate and prosecute and that techniques exist to assist justice system professionals in their management. In order both to facilitate the successful investigation and prosecution of these cases and to reduce the trauma to the child and non-offending family members, the following objectives form the basis of the recommendations in this paper:

1. **a coordinated approach, including police, Crown Counsel, Corrections, Ministry of Human Resources and any health, education and victim services personnel involved in the case;**

2. **consistent use of certain investigative and prosecutorial techniques to:**

   a) **assist police and Crown prosecutors in the management of these cases; and**

   b) **ensure that the special needs of children who must cope with an often intimidating, adult-oriented system are met;**

3. **the use of specially trained staff, in order to ensure the level of knowledge and expertise necessary to accomplish the above;**

4. **an inter-ministerial approach to the provision of offender treatment, victim treatment and support and public education.**

Detailed recommendations for each Branch and those regarding public education, treatment and support are included in the Recommendation section. Recommendations regarding information systems necessary to support this approach are included in the section on Implementation Issues.

2. Background to the policy development process

In May, 1983 the Executive Committee of the Ministry of Attorney General authorized a Ministry Committee to review and, as necessary, develop justice system policy in relation to child sexual abuse. In June, 1984, the first draft of this paper was circulated to a wide range of criminal justice system personnel. The present proposal has taken into consideration the comments generated by this extensive consultation, as well as intervening developments such as the release of the Badgley report on Sexual Offences Against Children, (1984).

Mounting public and professional concern about child sexual abuse, together with varying justice system practices across the Province and the need for a Ministerial policy for purposes of revising the Inter-Ministerial Child Abuse/Neglect Policy Handbook contributed to the initiation of a policy development process.

Since the inception of this task, public, professional and governmental focus on child sexual abuse has increased, and a variety of responses to the issue have developed in B.C. and in the rest of Canada. These developments, along with increasing awareness of the seriousness of the problem itself, have made the present policy process more timely than ever.

Encouraging as these developments are, they are not yet sufficient to meet the needs of sexually abused children. The findings of the Badgley report, the most recent and comprehensive investigation of sexual offences against children in Canada and of the systems designed to protect these children, indicate clearly the magnitude of the problem and the inadequacy in existing system responses.

Certain jurisdictions in B.C. and in other provinces have acquired a body of expertise of potential value to other professionals whose experience and knowledge of this topic is less developed. Police, Crown Counsel and Corrections Branch offices in various areas of the Province have already embarked on encouraging initiatives in relation to child sexual abuse. One of the major reasons for focussing a policy exercise on child sexual abuse at this time is to take the best of what has been developed through the experiences of those already concentrating on this problem and to extend this specialized knowledge to others throughout the province. It should be noted that virtually everything proposed here is currently being successfully utilized somewhere in the Province.

3. Application of the policy

'Child sexual abuse' is a general term and refers to a category of activities. In law, it is addressed by various offences under the Criminal Code and provisions of provincial child protection legislation. In addition, because the Criminal Code offences are not structured on the basis of specific and mutually exclusive types of activity, charges under several different provisions may be possible for any given incident. For purposes of this policy, the term 'child sexual abuse' is used to include any of the various criminal offences involving sexual behaviour and exploitation with respect to children whether committed by family members, acquaintances or strangers.

The age limit for application of this policy is set at 18 and under in order to establish a category wide enough to ensure that those whose developmental needs require it will benefit by the proposals and to conform to the mandate of social workers under the Family and Child Service Act. These policy recommendations are, however, meant to be inclusive rather than exclusive. It is intended that the policy would apply to appropriate cases involving mentally or physically disabled victims whose chronological age exceeds that of 18 or where a disclosure of child sexual abuse does not occur until the victim is an adult.

Clearly, differences exist in characteristics, capabilities and requirements of children of various ages. The policy should, therefore, be applied in an age-appropriate manner.

4. Incidence of child sexual abuse

Differing estimates of the incidence of child sexual abuse are based on varying definitions of what constitutes abuse; however, all recent estimates indicate that the incidence of child sexual abuse is high. Recent studies and experiences indicate that the incidence of child sexual abuse is higher than cases coming to the attention of the criminal justice system or than other authorities have previously indicated. A recent Ontario report, Child Sexual Abuse Protocol (November, 1983), cites what are probably the most widely used statistics in Canada: that one in four girls and one in ten boys will be sexually abused by an adult during their childhood. The most extensive enquiry undertaken in Canada on this subject, the recently released Badgley Committee report on Sexual Offences Against Children (August, 1984) indicates that sexual abuse may be even more prevalent than that. A report by the United Way of the Lower Mainland, Child Sexual Abuse, An Integrated Response: Implementation Guidelines (1984), uses Ministry of Human Resources figures to indicate sharp increases in reported sexual abuse cases.

5. Role of the criminal justice system

Consistent with the Badgley report, this proposal stresses the coordination of efforts of public agencies involved in incidents of child sexual abuse. It recognizes that the involvement of the criminal justice system is but one part of the coordinated approach which is required and can be justified only if it results in a positive effect on the child and family. To this end, close inter-ministerial cooperation is essential.

The involvement of the criminal justice system is important for a number of reasons. It identifies suspects, offenders and potential repeat offenders. It confirms for the offender, the victim and society that sexual abuse of children constitutes a serious crime and that the offender is responsible for the abuse and its consequences. It may also provide vindication, emotional catharsis and a sense of resolution for the victim. The criminal justice system assists in ensuring that the sexually abused child is protected from further abuse. Furthermore, where treatment is considered appropriate, an offender's compliance can be court-ordered in the context of a criminal prosecution.

While the Badgley report states that the long-term effects of alternate intervention approaches may never be known, it finds that a strategy which includes the criminal justice system provides more short-term benefits for the child than one which excludes the justice system. The Badgley report makes several strong recommendations which presume that the criminal justice system must play a significant role in cases of child sexual abuse.[1]

6. Credibility of the child

The Badgley Committee's research indicated that assumptions about the unreliability of young children as witnesses are largely unfounded. There are commonly held misconceptions about child sexual abuse such as: children fantasize or lie about sexual activity with adults; children initiate or willingly participate in such activity; denials of allegations or inconsistencies in accounts indicate lying.

The report suggests that the manner and circumstances surrounding an interview combined with a child's developmental stage can affect the child's ability to impart information. In addition, delayed and unconvincing disclosures by the victims and

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1 Further discussion of the benefits of justice system involvement in cases of child sexual abuse may be found in Anderson and Kennelly, 1979; Badgley, 1984; Contre et al, 1980; Metropolitan Chairman's Special Committee on Child Abuse, 1982, 1983; Ross, 1980; United Way of the Lower Mainland, 1984.

subsequent retraction of the allegations are recognized aspects of the dynamics of child sexual abuse. These factors will be understood and accommodated by the skilled investigator and prosecutor.

7. Integrated approach

In policy development

Any response to child sexual abuse requires the closest possible coordination of policy and application across a number of ministries and various branches of this Ministry. To this end, the Ministry of Attorney General is involved in inter-ministerial discussions with the Ministries of Human Resources, Health and Education to produce an inter-ministerial policy handbook on child abuse. Policy statements such as this one are being developed in close collaboration by all four ministries.

Because of the responsibilities of this Ministry, the policy recommendations in this paper are directed at criminal justice system personnel. The possible range of actions which could be taken by this Ministry constitute only a part of any effort to deal with this problem. Nonetheless, a clear statement of policy and coordination of procedure such as that recommended here is an important complement to the response of the other ministries and, in particular, the Ministry of Human Resources.

A coordinated approach is particularly important in the development of any plan to provide treatment and support for victims and/or offenders, as these areas cut across the jurisdictions of the Ministries of Attorney General, Human Resources and Health. This need for coordination is reflected in the recommendations for further work to be undertaken in this area of treatment and support.

At the local level

Consistent with the first objective of this paper, stated on page 1, one of the focal points of this proposal is the establishment, at the local level, of a coordinated, inter-agency approach to child sexual abuse.

This inter-agency approach, based on a locally developed protocol and involving some specialization of staff, was already operating in several areas prior to the policy development process. Since the inception of this policy process, the establishment of local protocols to implement this approach in other communities around the Province has increased, with a consistently positive response from those involved.

A coordinated approach enables an integration of activity which can serve to reduce significantly the trauma of justice and

social service system intervention for the child and other family members; maximize the effectiveness and promptness of any intervention; and enhance the likelihood of successful prosecution by ensuring that a wide range of information and experience is available to the prosecutor.

Joint responsibility to initiate the establishment of local protocols would rest with police and Crown Counsel, in close coordination with the Ministry of Human Resources. Other agencies would be brought into this development process as appropriate.

While some time is initially required to establish a local protocol, experience indicates that overall efficiency is increased. Conversely, much time and effort is wasted when police, Crown Counsel, Ministry of Human Resources or other involved agencies do not integrate their activities.[2]

8. Executive Committee approval

The Executive Committee of the Ministry of Attorney General has approved the following recommendations and the Method of Implementation proposed on page 27.

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2 See Anderson and Kennelly, 1979; Badgley, 1984; Berliner and Stevens, 1979; Conte et al, 1980; Metropolitan Chairman's Special Committee on Child Abuse, 1983; Ross, 1980; and United Way of the Lower Mainland, 1984 for discussions of an integrated approach to child sexual abuse.

I. RECOMMENDATIONS

1. The Justice System

Specific procedures for each jurisdiction's handling of child sexual abuse cases will be established in local inter-agency protocols and will vary with the needs and circumstances of individual communities. The following recommendations constitute guidelines for the development or consolidation of such procedures.

A. POLICE

Investigation

1. **Police will conduct a prompt, detailed and thorough investigation in every case of alleged child sexual abuse. Case files will be carefully maintained and updated in accord with current policy. Reasons for not proceeding at any stage should be included in the case file.**

   The lack of any one of the following factors should not necessarily determine whether or not a full criminal investigation is undertaken or a report forwarded to Crown Counsel: lack of physical evidence; the age of the child; inconsistencies in the child's account; the child's denial of the allegation; absence of other witnesses; refusal of the family to cooperate. This is not meant to limit police officers' ability to assess actual evidence but to highlight the fact that what initially may appear to be a lack of credibility may be attributable to factors unrelated to whether the child is telling the truth. These have been discussed on page 4.

   It should be noted that, consistent with Ministry of Attorney General policy, offences related to child sexual abuse are considered to be serious matters and therefore not, as a general rule, eligible for diversion.

Inter-Agency Coordination and Designation of Staff

2. **Police should participate in developing a local protocol which will establish and describe a coordinated approach for professionals involved in cases of child sexual abuse. A specific police officer should be designated to consult with the other professionals involved in accordance with the protocol adopted. Where police are the first point of contact in these cases, they should involve M.H.R. social workers at the earliest opportunity and continue to work closely with them until it has been determined that there is no issue of child protection.**

   The purpose of this protocol is to coordinate, by means of scheduled meetings or a network of contacts, the efforts of those professionals (police, Crown Counsel, social workers,

Corrections personnel, education and health personnel, victim assistance groups and any other involved agencies) who respond to incidents of child sexual abuse. It would provide a mechanism for sharing information and expertise where appropriate. While final prosecution decisions will remain with Crown Counsel, input into these decisions will be facilitated through this coordination. It is essential that coordination begin immediately after a disclosure of sexual abuse.

3. **Where possible, specially trained officers should be designated to investigate all cases of alleged child sexual abuse.**

The experience of those working in this area indicates that special skills are needed to deal with child sexual abuse. These skills include both interviewing approaches appropriate to young children and innovative approaches to the gathering of evidence in these cases. Such skills are best acquired by a combination of specialized training and the accumulation of experience and depend to some extent on the personal suitability of the officer.

4. **Wherever possible, the same police officer should conduct the initial investigation and remain with the case for its duration.**

This continuity will enable the officer to establish rapport with the child victim and non-accused family members. This will both help to ensure a high quality of evidence and provide consistent support to the child and the family. This recommendation may be difficult to implement in smaller detachments; however, every effort should be made to maintain as much consistency as possible, without delaying the progress of the case.

Training

5. **R.C.M.P., municipal police and Justice Institute personnel should cooperate to develop and provide training courses to support this policy. All municipal police and R.C.M.P. officers working in B.C. who are likely to come in contact with these cases should recieve basic training in regard to child sexual abuse. All police assigned specifically to child sexual abuse duties should, in addition, undergo specialized training provided by the Justice Institute or the R.C.M.P. "E" Division Training Academy.**

Some proportion of these training courses should be developed and taught cooperatively with Crown Counsel, Corrections, M.H.R. and medical and educational personnel in order to facilitate a coordinated approach to these cases.

Training courses should address the special needs and concerns of certain types of victims, such as mentally or physically disabled children and certain cultural groups, including Native Indians.

Interviewing the Child

6. **An interview with the child should take place at the earliest possible time following disclosure and the number and duration of interviews conducted with a child be kept to a minimum. To this end, interviews should be conducted, wherever practicable, jointly with M.H.R.**

7. **Wherever possible, interviews with children should be conducted in some place likely to be considered by the child as safe and non-threatening. If interviews are to be conducted at a police station, the interviewing room should be as comfortable and as non-threatening as possible.**

8. **Interviews should be audio-taped and/or video-taped where practicable and appropriate. The nature and purpose of these tapes should be explained to the child and his/her family.**

   These video-taped interviews can be used a) by Crown Counsel to assist in determining whether charges can be approved without repetitious interviews; b) to inform the accused and defence counsel of the case against the accused; and c) to increase the likelihood of early guilty pleas, thereby shortening the trial process.

9. **Age-appropriate language and diagrams as necessary should be used in interviews. Anatomically correct dolls should be used where appropriate, by officers trained in their use, as an aid in interviewing the child.**

   These dolls could be purchased by the police or an arrangement made with local M.H.R. offices who have such dolls.

Provision of Information to the Victim and Non-accused Family Members

10. **Police should ensure that information is provided to the victim and non-accused family members regarding:**

    a) case file number, police name and/or number and telephone number, by means of a police referral card;

    b) immediate steps that will be taken in relation to the case;

    c) what to expect during the investigative and court processes;

d) how to obtain further information about progress of the case; and

e) appropriate social services, victim services, legal services and medical or therapeutic agencies.

Compliance with c) should be done in a manner that will not alarm the victim and/or the non-accused parent and not jeopardize their cooperation in the investigative and judicial process.

Removal of Alleged Offender

11. **Wherever, on reasonable and probable grounds, a criminal offence involving child sexual abuse is believed to have been committed, police should ensure the immediate protection of the child and of other children, including arrest wherever legal grounds exist for such action. In the latter case, the alleged offender should be held in custody pending a bail hearing wherever legal grounds exist for such action.**

In considering whether arrest or holding in custody pending a bail hearing is necessary in order to prevent the continuation or repetition of the offence or the commission of another offence, police should consider the nature and dynamics of child sexual abuse.

The nature of these offences is such that the offender often lives with or is in constant contact with the victim and the abuse often continues over a long period of time. Even where steps can be taken to protect the victim of the specific offence in question, it may well be that other children are vulnerable to abuse if the accused is allowed to go free.

Where arrest or voluntary removal of the alleged offender is impossible or impracticable, police should notify the Ministry of Human Resources social worker on the local team, who may then consider action under Sections 9(1) and 16(4) of the Family and Child Service Act. If necessary, police may themselves take action under Sections 9(1).

Prevention

12. **Prevention and early detection of child sexual abuse should be established as crime prevention priorities.**

Programs should be directed toward school children from kindergarten to grade 12 and to parents and teachers, as well as to the general public. Much of the success in preventing child sexual abuse depends upon increased awareness of its incidence and of the dynamics of abuse. In order to feel safe enough to act assertively to prevent potentially abusive situations from developing or to disclose such situations, both children and the adults charged with their care must be educated about abuse and must feel confident that they will be supported in stopping or preventing abuse. Sensitive crime prevention programs involving police, parents, other Ministries, concerned professionals and community groups can go a long way toward creating such an environment.

B. CROWN COUNSEL

Charging

1. **Prosecution of cases involving allegations of sexual abuse of children should be pursued wherever sufficent evidence exists. Where Crown Counsel do not proceed, the reasons for such a decision should be recorded and retained for monitoring purposes.**

   In deciding whether charges should be approved, the lack of any one of the following factors should not necessarily determine whether or not the charge proceeds: the lack of physical evidence; the age of the child; inconsistencies in the child's account; the child's denial of the allegation; refusal of the family to cooperate; or absence of other witnesses. This is not meant to limit Crown Counsel's ability to assess actual evidence but to highlight the fact that what initially may appear to be a lack of credibility may be attributable to factors unrelated to whether the child is telling the truth. These have been discussed on page 4.

Inter-Agency Coordination and Designation of Staff

2. **Crown Counsel should participate in developing a local protocol which will establish and describe a coordinated approach for professionals involved in cases of child sexual abuse. Crown Counsel should be designated in each area to consult with the other professionals involved in accordance with the protocol adopted.**

   The purpose of this protocol is to coordinate, by means of scheduled meetings or a network of contacts, the efforts of those professionals (Crown Counsel, police, social workers, Corrections personnel, victim assistance groups, etc.) who respond to incidents of child sexual abuse. The designation of participants in the protocol would permit a working relationship to be developed among the professionals involved in what are difficult and time consuming cases. The protocol would provide a mechanism for sharing information and expertise where appropriate, recognizing the need for confidentiality. Crown Counsel would explain to other professionals the reasons, in any given case, for prosecution decisions. It would be clear, however, that the responsibility and accountability for prosecution decisions would remain with Crown Counsel.

   Crown Counsel should also maintain appropriate communication with counsel involved in any civil proceedings in relation to the child.

3. **Wherever possible, the Crown Counsel designated under (2) should be involved in the charge approval and prosecution of all cases of child sexual abuse.**

The Crown Counsel designated to consult with other professionals would be experienced in child sexual abuse prosecutions, have a detailed knowledge of the individual cases and be able to take advantage of the input provided by consulting with the other professionals.

To avoid long delays, additional Crown Counsel could be assigned to prosecutions. However, the designated Crown Counsel should be available for assistance and direction and, for purposes of consultation with the various professionals involved, be knowledgeable about cases prosecuted by other Crown Counsel.

4. **In all but the most exceptional circumstances, every effort should be made to effect a practice of vertical prosecution in cases of child sexual abuse. Crown Counsel should be assigned to a case at the earliest opportunity, before the first appearance/judicial interim release hearing, and should remain with the case until final disposition at trial.**

This policy is meant to ensure consistency and continuity in the handling of these cases and is particularly important in prosecutions in which child witnessess and sexual offences are involved. The effectiveness of the victim's testimony to a large extent depends upon the familiarity and the rapport established with the prosecutor. However, it is recognized that, in some instances, circumstances may make vertical prosecution impossible.

Diversion

5. **Offences related to child sexual abuse are considered to be serious matters and therefore not, as a general rule, eligible for diversion.**

Staff Development

6. **It is critical that all Crown Counsel, and particularly those who are assigned to this area, be encouraged to participate in Crown Counsel and inter-agency seminars and to assist in their design.**

7. **Criminal Justice Branch should ensure the maintenance of a central source of information and law in the area of child sexual abuse for use by Crown Counsel and identify a province-wide resource person in this subject area.**

This will maximize the sharing of information and expertise among Crown Counsel on a province-wide basis.

Trial Scheduling

8. **Cases involving child sexual abuse should be given priority in trial scheduling.**

   Because a child's recall of detail is particularly affected by the passage of time, and because a prolonged waiting period is likely to increase trauma to the child, delays in scheduling trials should be avoided.

Interviewing and Prosecuting Techniques

9. **It is critical that child witnesses be interviewed by Crown Counsel sufficiently in advance of the date set for the preliminary/trial to ensure that the child's ability to communicate the details of the alleged offence can be assessed, the necessary rapport with the child can be established, the court process can be explained to the child and the non-accused parent, and the child can be prepared for testimony at trial in a manner appropriate to the child's level of development.**

   This recognizes that interviewing child victims of sexual abuse requires time and patience. M.H.R. officials or other appropriate agencies should also be involved at the earliest opportunity to support the child and assist in explaining the justice system.

10. **The following techniques have been found to be effective and should be considered in appropriate cases:**

    (a) Use of available audio or videotape recordings of interviews of the child.

    This might assist Crown Counsel in: (i) determining whether charges should be approved without repetitious interviews; (ii) informing the accused and defence counsel of the case against the accused and (iii) increasing the likelihood of early guilty pleas, thereby shortening the trial process.

    (b) Expert witnesses to testify on sentencing with respect to, for example, child development, the dynamics of child sexual abuse, the offender, the effect of the offence on the child and family, etc.

    Expert witnesses may also be useful at trial to show patterns of behaviour consistent with these dynamics.

    (c) Anatomically correct dolls or other such aids to assist the young child in communicating the details of the incident in interviews and at trial.

(d) **An order for the exclusion of the public under section 442(1) of the Criminal Code.**

The purpose would be to diminish the stress on the child testifying. Letters from psychiatrists, psychologists, etc., could be used to establish the grounds required for such an order.

(e) **An order banning publication of the evidence and identity of the complainant.**

(f) **A direction from the presiding judge that the anonymity of a child victim be protected in the court transcript as per the decision of Govan, J. in Regina v. B.C.S.**

Conditions of Release

11. **At any judicial interim release hearing, unless there are compelling reasons to do otherwise, Crown Counsel should ask, as a condition of release, that the accused not communicate with the victim and, where the accused lives with the victim, that the accused vacate the residence.**

Where it is apparent that the accused may represent a danger to other children, Crown Counsel should consider requesting a condition that the accused not communicate with any child 18 years or under unless supervised, a condition that the accused seek counselling, or, in extreme circumstances, that, consistent with normal practice, the accused be detained in custody.

Communicating a Change in the Status of the Case

12. **Crown Counsel should, prior to a scheduled court appearance or hearing, attempt to advise a non-accused parent or guardian or the child, as appropriate, of any adjournment, change of plea, or stay of proceedings, and make it known that Crown Counsel will be available to provide appropriate information about the case.**

In cases where a non-accused parent is not supportive of the child, M.H.R. officials or some other appropriate agency should be advised, if not already involved, and given responsibility to keep the child informed.

C. CORRECTIONS

Reporting

1. **Corrections Branch staff and contractors who are likely to come into contact with child sexual abuse cases should be familiar with steps to report suspected cases of child sexual abuse as outlined in the new Inter-Ministry Child Abuse Handbook. All suspected cases of child sexual abuse shall be reported immediately to the police and the local office of the Ministry of Human Resources.**

   Relevant Branch policy manuals, in particular those dealing with Youth Programs and Family Services, will incorporate detailed procedures to be followed by Branch staff.

Referral

2. **In addition to reporting suspected cases of child sexual abuse, staff should ensure that the immediate needs of the victim and/or the non-accused parent and/or the alleged offender are met by prompt referral to the appropriate community agencies.**

Inter-Agency Coordination

3. **In all child sexual abuse cases in which the Branch has an active responsibility and involvement, staff should coordinate with other involved agencies to ensure the respective interests of the victim, the alleged offender and the public are met in a complementary manner. Such coordination should be consistent with Branch standards and policy on information-sharing as well as with local protocols for inter-agency coordination.**

   The purpose of such coordination by Branch staff is to fulfill the Branch's responsibilities respecting bail, pre-sentence reports, supervision of Court orders, etc. Staff should ensure that the Branch's non-partisan role in the adversarial process is not compromised.

Assignment of Staff

   Wherever practicable, supervisors should assign to child sexual abuse cases those staff who are the most trained, experienced and personally suitable. Clearly, it is advantageous to have as many staff as possible trained to manage child sexual abuse cases. The use of specially trained staff will help ensure that cases are handled effectively and with minimal additional trauma to the victim.

Training

5. **The Corrections Academy at the Justice Institute should develop basic and specialized training courses on the subject of child sexual abuse. All line staff who are likely to come into contact with child sexual abuse cases should be encouraged to take appropriate courses. Staff who are frequently assigned these cases should be directed to take such specialized training programs as are offered by the Justice Institute or other educational services.**

   Some portion of these courses should be developed and taught cooperatively with police, Crown Counsel, M.H.R. and medical and education personnel in order to facilitate a coordinated approach to these cases.

Diversion

6. **Consistent with Ministry of Attorney General policy respecting diversion, offences involving child sexual abuse are considered to be serious matters and therefore, as a general rule, should not be recommended for diversion.**

Reports to the Courts

7. **Probation Officers should, in preparing pre-sentence or pre-bail reports, include information regarding the effects of the offence and the Court proceedings on the child and family as well as the availability and appropriateness of treatment programs for the offender and the offender's willingness to seek treatment.**

   Where a recommendation is made to the Court that an offender be required, as a condition of a Court order, to participate in a program of treatment, the Court should be requested to explicitly order the name and location of the treatment program and the terms for attendance with which the offender is expected to comply so as best to ensure the enforcement of such orders.

Interviews with the Victim and/or Non-Offending Parent

8. **Corrections Branch staff should, prior to interviewing the victim or non-offending parent for the purposes of a report for the Court, consult with the assigned social worker, investigating police officer(s), Crown Counsel and/or the non-offending parent to determine whether a personal interview is in the best interest of the victim. Wherever possible, interviews should take place in a location that is convenient and comfortable for the person being interviewed.**

Conditions of Release and Detention Orders

9. Unless there are compelling reasons to do otherwise, recommendations to the Court or other releasing authority respecting the accused's possible release on bail, probation, temporary absence or parole should advocate the inclusion of a condition that the accused not associate with or attempt to contact the victim directly. Where the accused has been living with the victim, it should be recommended that the accused vacate the residence and, where appropriate, that the accused participate in an available treatment program such as the releasing authority directs. Where the accused may represent a danger to other children, consideration should be given to recommending that the accused be detained in custody, or failing that, that the accused not associate with any child 18 years or under unless supervised.

Communicating a Change in the Status of the Offender

10. Any significant change in the situational status or whereabouts of accused persons or offenders under supervision or in the custody of the Branch should be communicated to other agencies likely to have an interest in the case (e.g. social worker, Crown Counsel, police). In cases where the victim's safety or welfare is a concern, communciation with the non-offending parent or guardian (or with the victim directly if living independently) should also be made.

Treatment of Offenders

11. Staff should ensure that persons under supervision or in the custody of the Branch who are accused or convicted of offences related to child sexual abuse are encouraged to seek and actively assisted in obtaining necessary assessment and treatment from appropriate agencies or individuals, subject to the limitations of available resources. Staff should take action, to the fullest extent possible, to ensure that a plan of treatment is offered to all appropriate child sexual abuse offenders and that these offenders be counselled to participate in such programs.

12. The Corrections Branch should ensure its representation in a proposed inter-ministerial approach to develop proposals for the provision and funding of a systematic and integrated program for the treatment of child sexual abuse offenders.

    The coordinated development of treatment services is discussed more fully in 2. Inter-ministerial Issues.

Supervision of Offenders

13. Due to the serious nature of child sexual abuse, offenders

who are released to community supervision on bail, probation temporary absence or parole, should be given high priority and supervised as intensively as possible. Any community release should also be made known to the investigating police officer(s) and to the police in that community to which the offender is released, if different.

Where treatment is court-ordered, Corrections staff should take particular care to monitor and enforce that order, to report any apparent breach to Crown Counsel and to do whatever is necessary to assist in the prosecution of any breach.

D. COURT SERVICES

Managing Child Witnesses

1. **Wherever possible, child witnesses should be placed in an area where they can wait privately until called for testimony. Attention should be paid to providing suitable reading material, dolls and/or other toys.**

   Children appearing in court as witnesses are usually initially nervous and intimidated. Every effort should be made to put them at ease both for their own well-being and to increase their effectiveness as witnesses.

Information for Court Services Staff

2. **Court Services Branch should provide information to staff on the dynamics of child sexual abuse cases and should encourage appropriate staff to attend information sessions on this issue.**

   While Court Services staff have no specific responsibilities in this area, they frequently have contact with child sexual abuse victims or family members. Information on the issue would help ensure a high quality of service in a sensitive area .

Information for the Judiciary

3. **Court Services Branch should inform the judiciary of the availability of assistance from the Ministry in the development and implementation of information sessions for judges on the issue of child sexual abuse and the Ministry's policy in this regard.**

   Individual judges have already indicated an interest in obtaining additional information on this subject; community representatives working with child sexual abuse victims were invited to a meeting of judges last year. Additional information of this nature might be of interest and assistance to judges when such cases appear before them.

Public Information

4. **Information on child sexual abuse should be included among the public information materials displayed and available in all courthouses and Court Services offices.**

   The availability of this information in such locations may provide timely and non-threatening information to persons who might feel uncomfortable about requesting it. It would also serve to reinforce the role and responsibility of the justice system in this area.

2. Inter-ministerial Issues

A. TREATMENT AND SUPPORT SERVICES

The long-term goal of the approach outlined in this report is not only the protection of the children concerned, but the reduction of the occurrence of such crimes. The availability of treatment programs for offenders is, therefore, in the view of the Ministry, critical to the success of new justice system initiatives with respect to child sexual abuse.

Furthermore, an examination of child sexual abuse has repeatedly encountered the need for support services to assist child victims and non-offending family members both through the criminal justice process and in adjusting to the impact of the crime upon their lives.

Responsibility for developing these support services cuts across the Ministries of Health, Human Resources and Attorney General. An integrated and systematic policy is necessary in order to help ensure as far as possible that access to treatment and support is provided where it is required and that any programs developed meet the needs of victims and offenders.

The importance of treatment and support notwithstanding, the implementation of other recommendations in this report should not be dependent upon the development of these programs.

1. **The Ministry should cooperate in the establishment of an inter-ministerial approach by the Ministries of Attorney General, Health and Human Resources to develop, on a priority basis, a coordinated and systematic strategy for the provision of:**

   a) treatment for both incarcerated offenders and offenders in the community;

   b) support for victims and non-offending family members, including information, counselling and court accompaniment; and

   c) specialized treatment for victims and non-offending family members.

Federal and provincial efforts to provide treatment for sex offenders should be coordinated, wherever possible. Provincial representatives should seek out practical avenues for such a coordinated approach.

2. **The allocation of resources for treatment of child sexual abuse offenders and support and treatment for victims and non-offending family members should be addressed as a priority issue by the Ministry of Attorney General and by the proposed inter-ministerial initiative concerning treatment and support.**

Recent federal initiatives have indicated that collaboration between federal and provincial governments may be possible and should be pursued.

B. PUBLIC EDUCATION/INFORMATION

An essential element in the implementation of this policy and a key to prevention is the education of adults and children about child sexual abuse and about the policy itself. To the extent that education can increase children's sense of their own power, their ability to communicate about the abuse, and the ability of adults to hear and to act upon what the children are trying to tell them, that education can contribute significantly to the prevention and early detection of child sexual abuse. Resources allocated to education and prevention will be cost-effective in the long run, and result in a future saving of dollars as well as in the preservation of the quality of human lives.

1. **The Ministry should cooperate with the Justice Institute, the Ministries of Health, Education and Human Resources and others working in the field, in the development of coordinated public education programs on child sexual abuse.**

   There already exist in the professional community excellent public educational materials in relation to child sexual abuse. These materials should be reviewed and utilized as appropriate. In order to take advantage of their expertise, the Ministry should, in cooperation with the Ministries of Health, Education and Human Resources, pursue a strategy for providing support to community organizations skilled in this area. Communication of government policy in relation to child sexual abuse is being addressed in the production of a revised Inter-Ministry Child Abuse Handbook.

2. **All public information materials produced or used by the Ministry should be reviewed with a view to ensuring consistency with Ministry policy. This Ministry should also approach the Ministries of Health, Education and Human Resources to ensure that any materials produced or currently used by them reflect a consistent government approach.**

II. IMPLEMENTATION ISSUES

A. INFORMATION SYSTEMS, MONITORING AND EVALUATION

Monitoring and evaluation are crucial to assessing both the impact of policy changes such as those recommended in this proposal and on-going justice system operations. Any assessment of the impact of the policy on the justice system must include a consideration of its financial impact. The capacity to monitor both the incidence of reported sexual abuse of children and the justice system response is dependent upon adequate information systems in all components of the justice system.

1. **Justice system staff should record and tabulate detailed information on all cases of alleged child sexual abuse no matter how far the case proceeds. This should include charges, convictions, dispositions, all court orders, age and sex of victims, and the relationship between the offender and victim. Reasons for not proceeding at any stage should be recorded for monitoring purposes.**

   The methods by which this is done should be developed during the implementation phase as a result of close collaboration among all branches and the police and where appropriate, the person(s) responsible for evaluation. A principal task of the Implementation Team would be to facilitate that collaboration.

2. **The policy changes proposed here should be monitored in order, to the extent possible, to assess how effectively the policy has been implemented; how the policy is 'working'; and the effects the policy changes are having on the system as a whole, including financial impact. The assessment of impact on the system should include, as far as is practicable, other ministries involved in child sexual abuse cases.**

   Information from the monitoring process should be fed back to the system on an ongoing basis in order to allow all components of the justice system to identify areas of concern and adjust practices or procedures accordingly.

3. **Ministry Branches will be responsible for evaluating their own progress. Coordination of this process among Branches will be facilitated by the Implementation Team. Efforts will also be made by the Implementation Team to obtain federal funds for a more comprehensive evaluation.**

   Any such evaluation plan would be developed in close cooperation with appropriate Ministry and police staff and would be submitted to Branch heads before any final decisions are made.

B. METHOD OF IMPLEMENTATION

1. Consistent with current practice, Ministry Branch heads, the Commanding Officer of R.C.M.P. "E" Division and Chief Constables of municipal police departments will be responsible for implementing recommendations.

2. An Implementation Team, consisting of representatives of Police Services, Criminal Justice, Corrections, and Court Services Branches will be established to assist with coordination of implementation.

3. The Implementation Team will:

   (a) facilitate collaboration among Branches with respect to implementation, monitoring and evaluation;

   (b) take appropriate initiatives to implement those recommendations requiring inter-ministerial action; and

   (c) pursue federal funding for training, public education, evaluation and other programs suitable for federal-provincial collaboration.

C. RESOURCE IMPLICATIONS

Much of what is recommended in this paper involves the maximization of the use of existing resources and can be accomplished without additional expenditures. Most of the procedural changes recommended for police, Crown Counsel and Corrections can be accomplished within existing resources. Furthermore, cost savings will likely result from increased efficiency stemming from an integrated approach guided by a written protocol at the local level.

It is acknowledged, however, that the implementation of some of the recommendations may involve increased pressures throughout the system as more cases are processed. Additional resource allocations would likely be required for those recomendations involving: staff training requirements; public education materials; services such as treatment for offenders, victims, and non-offending family members, and victim support; and equipment such as video systems and anatomically correct dolls. The potential for federal cost-sharing in some of these areas should be explored by the Implementation Team.

Detailed projections of increased costs are difficult in the absence of accurate data regarding incidence of child abuse in the population and the numbers of cases likely to enter the system in the future. Further inquiry into cost projections would be a major undertaking with little promise of utility. However, the financial impact of the policy on the system should be addressed in any evaluation.

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